

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

In re Application of )  
 )  
**ENTERCOM LICENSE, LLC** ) MB Docket No. 16-357  
 )  
FM Broadcast Station KDND, ) File No. BRH-20050728AUU  
Sacramento, California ) File No. BRH-20130730ANM  
 ) Facility ID # 65483  
 )  
For Renewal of License )  
  
TO: Office of the Secretary  
  
ATTN: The Commission

**PETITION FOR RECONSIDERATION**

Edward R. Stolz II (Stolz), by his attorney, and pursuant to 47 CFR §1.106(b)(2), hereby respectfully submits this Petition for Reconsideration of the ***Memorandum Opinion and Order*** in the above-captioned matter released by the Commission en banc on September 8, 2017, FCC 17-114, 32 FCC Rcd --, 2017 WL 3953406 (***MO&O***). In so doing whereof, the following is shown:

**Timeliness**

1. The thirtieth day subsequent to September 8, 2017 was Sunday, October 8, 2017. Because of the federal Columbus Day holiday on Monday, October 9, 2017, the next day that the federal government operated is today, Tuesday, October 10, 2017. Therefore, this pleading is timely filed.

**Section 1.106(b)(2)**

2. As FCC 17-114 *inter alia* denied an "Application for Review", the applicable procedural rule is 47 C.F.R. §1.106(b)(2). It states:

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

(i) The petition relies on facts or arguments which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or

(ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity.

3. It is respectfully submitted that, pursuant to subsection (ii), there are two arguments to be made by Stolz that were unknown to him until after FCC 17-114 was released.

**Deterrence**

4. At page 5, ¶14 of the *MO&O*, the FCC wrote:

We did not designate additional stations here, for example, for revocation. This is consistent with the policy reflected in the *Character Policy Statement* that deterrence is an important element of the character qualifications process and that the loss of a single station is generally an adequate sanction. [footnotes omitted].

5. It is respectfully submitted that this does not square with the FCC's treatment of one its former regulatees, Michael Rice. *Contemporary Media, Inc.*, 12 FCC 14254 (ALJ, 1997), *affirmed*, 13 FCC Rcd 14437 (FCC en banc, 1998), *recon. den.*, 14 FCC Rcd 8790 (1999), *affirmed sub nom. Contemporary Media, Inc. v*

**FCC**, 214 F.3d 187 (D. C. Cir. 2000), *cert. den.*, 532 U.S. 920 (2001).

6. It appears that we have one level of punishment for an individual such as Michael Rice, and another, far more forgiving, level of punishment for Entercom Communications Corporation, a publicly traded entity.

7. We have the same type of situation here as the one a half-century ago where the FCC revoked an AM license held by Daniel Enright and Jack Barry, but failed to take any disciplinary action against their business partner, the National Broadcasting Company, concerning a game show produced by Enright and Barry and airing on NBC owned and operated television stations and the NBC network. ***Melody Music, Inc. v. FCC***, 345 F.2d 730 (D. C. Cir. 1965).

8. To have one FCC and one body of communications law for individuals, and to have another FCC and another, separate and unequal body of communications law for publicly traded entities such as Entercom is arbitrary and capricious and violates the Administrative Procedure Act, 5 U.S.C. §706(2)(A).

**Entercom's Economic Penalty or Loss**

9. Our reading of FCC 17-114 is that the FCC never considered Stolz's argument that it isn't clear from the record how severe Entercom's "punishment" was, given that it is required to divest multiple stations in the Sacramento radio market in

order to make its proposed merger with CBS Radio come into compliance with 47 C.F.R. §73.3555(a).

10. The Chief ALJ issued FCC 17M-09 terminating the above-captioned proceeding on March 16, 2017. The parties to the Entercom and CBS Radio merger filed their FCC Forms 314 and 315 applications electronically on March 20, 2017. Thus, the Chief ALJ would not have known as of March 16, 2017 that Entercom proposed to be the beneficial owner of some ten radio stations in Sacramento.

11. Therefore, the Chief ALJ could not have known, one way or the other, whether Entercom was in fact "willingly accepting the severest penalty in a renewal case" (FCC 17M-09 at 2). Because of potential tax and accounting maneuvers, Entercom may not have suffered any kind of a penalty at all. This is so because Entercom must divest certain stations it would otherwise be receiving in its merger with CBS Radio to get down to the maximum allowed by 47 CFR §73.3555(a).

12. Sadly, it appears that the Commission *en banc* is unwilling to find out how severe a sanction it "imposed" on Entercom by accepting its surrender of the KDND license. This, simply stated, is an abdication of the FCC's role in protecting the public interest, convenience and necessity.

13. Stolz therefore requests that the Commission *en banc* grant this Petition for Reconsideration and order an accounting of Entercom to determine the actual economic penalty suffered by

it. It necessarily must do this to build a complete record on whether the Entercom - CBS Radio merger would serve the public interest, convenience and necessity.

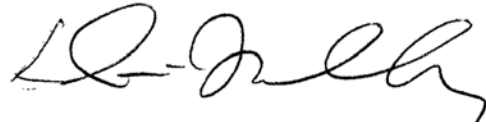
### **Conclusion**

14. Publicly traded corporations such as Entercom must be treated on an equal plane with individuals such as the individual who suffered the FCC's revocation of nine broadcast station authorizations held by him. Furthermore, given the unique circumstances of the Entercom - CBS Radio merger, the public interest, convenience and necessity, would be well served by a full and fair *en banc* review of the actual economic consequences of the surrender of the KDND license, to determine whether Entercom really suffered "the most drastic" penalty as the result of its role in the death of Jennifer Lea Strange.

**WHEREFORE**, Edward R. Stolz II urges that the foregoing Petition for Reconsideration **BE GRANTED**, the **MO&O**, FCC 17-114, **BE VACATED**, and additional proceedings ordered relative to Entercom Communications Corporation consistent with this Petition.

Respectfully submitted,

**EDWARD R. STOLZ II**

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By \_\_\_\_\_  
Dennis J. Kelly  
His Attorney

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DATED: October 10, 2017

## **CERTIFICATE OF SERVICE**

It is hereby certified that true copies of the foregoing "Petition for Reconsideration" were served by first-class mail, postage prepaid, on this 10<sup>th</sup> day of October, 2017 upon the following:

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Dennis J. Kelly